

N.Y.S.D. Case #  
03-cv-8138(LAP)

10-2968-cv

Bendik v. Hartford Life Insurance Co.

# MANDATE

UNITED STATES COURT OF APPEALS  
FOR THE SECOND CIRCUIT

SUMMARY ORDER

RULINGS BY SUMMARY ORDER DO NOT HAVE PRECEDENTIAL EFFECT. CITATION TO A SUMMARY ORDER FILED ON OR AFTER JANUARY 1, 2007, IS PERMITTED AND IS GOVERNED BY FEDERAL RULE OF APPELLATE PROCEDURE 32.1 AND THIS COURT'S LOCAL RULE 32.1.1. WHEN CITING A SUMMARY ORDER IN A DOCUMENT FILED WITH THIS COURT, A PARTY MUST CITE EITHER THE FEDERAL APPENDIX OR AN ELECTRONIC DATABASE (WITH THE NOTATION "SUMMARY ORDER"). A PARTY CITING A SUMMARY ORDER MUST SERVE A COPY OF IT ON ANY PARTY NOT REPRESENTED BY COUNSEL.

At a stated term of the United States Court of Appeals for the Second Circuit, held at the Daniel Patrick Moynihan United States Courthouse, 500 Pearl Street, in the City of New York, on the 15<sup>th</sup> day of September, two thousand eleven.

PRESENT: GUIDO CALABRESI,  
RICHARD C. WESLEY,  
GERARD E. LYNCH,  
*Circuit Judges.*

USDC SDNY  
DOCUMENT  
ELECTRONICALLY FILED  
DOC #:  
DATE FILED: October 12, 2011

MICHAEL M. BENDIK,

*Plaintiff-Appellant,*

-v.-

10-2968-cv

HARTFORD LIFE INSURANCE COMPANY,

*Defendant-Appellee.*

FOR APPELLANT: SCOTT M. RIEMER, Riemer & Associates, LLC, New York, NY (Joseph Anci, Riemer & Associates, New York, NY; Christopher E. Chang, Law Offices of Christopher E. Chang, New York, NY, on the brief).

FOR APPELLEE: BYRNE J. DECKER, Pierce Atwood LLP, Portland, ME.

MANDATE ISSUED ON 10/11/2011

1 Appeal from the United States District Court for the  
2 Southern District of New York (Preska, C.J.).  
3

4 **UPON DUE CONSIDERATION, IT IS HEREBY ORDERED, ADJUDGED**  
5 **AND DECREED** that the judgment of the district court be  
6 **AFFIRMED.**

7 Plaintiff-Appellant Michael Bendik appeals from a July  
8 14, 2010 judgment of the United States District Court for  
9 the Southern District of New York (Preska, C.J.) granting  
10 summary judgment in favor of Defendant-Appellee Hartford  
11 Life Insurance Company and denying Appellant's cross-motion  
12 for summary judgment. We assume the parties' familiarity  
13 with the underlying facts, the procedural history, and the  
14 issues presented for review.

15 "In an ERISA action, we review the district court's  
16 grant of summary judgment based on the administrative record  
17 *de novo* and apply the same legal standard as the district  
18 court." *Hobson v. Metro. Life Ins. Co.*, 574 F.3d 75, 82  
19 (2d Cir. 2009). "Summary judgment is appropriate only where  
20 the parties' submissions show that there is no genuine issue  
21 as to any material fact and the moving party is entitled to  
22 judgment as a matter of law." *Fay v. Oxford Health Plan*,  
23 287 F.3d 96, 103 (2d Cir. 2002). The district court must  
24 view the evidence in the light most favorable to the non-

1 moving party. *Anderson v. Liberty Lobby*, 477 U.S. 242, 255  
2 (1986).

3 Having conducted an independent review of the record in  
4 light of these principles, we affirm the district court's  
5 judgment for substantially the same reasons stated by the  
6 district court in its thorough and well-reasoned memorandum  
7 and order.

8 We have considered Appellant's remaining arguments and  
9 find them to be without merit. For the foregoing reasons,  
10 the judgment of the district court is hereby **AFFIRMED**.

11  
12 FOR THE COURT:  
13 Catherine O'Hagan Wolfe, Clerk  
14  
15

  
A circular official seal of the United States Court of Appeals, Second Circuit is stamped over the signature. The seal contains the text "UNITED STATES", "SECOND CIRCUIT", and "COURT OF APPEALS" around a central emblem.

A True Copy

Catherine O'Hagan Wolfe, Clerk

United States Court of Appeals, Second Circuit

  
A circular official seal of the United States Court of Appeals, Second Circuit is stamped over the signature. The seal contains the text "UNITED STATES", "SECOND CIRCUIT", and "COURT OF APPEALS" around a central emblem.